



1995 SENATE BILL 329

September 13, 1995 - Introduced by Senator PETAK, cosponsored by Representative LADWIG. Referred to Committee on Finance.

1 **AN ACT relating to:** the expenditure of a sum sufficient equal to \$116,854 plus
2 interest from the transportation fund for payment of a claim against the state
3 made by James Cape and Sons Company.

Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$116,854, plus interest, from the transportation fund in payment of a claim made by James Cape and Sons Company against the department of transportation (DOT). In 1990, the claimant performed work for DOT under contract for the improvement of STH 29 in Marathon County. At the request of DOT, the claimant performed additional work not covered by the contract involving excavation below subgrade (EBS) as a result of roadbed instability caused by adverse weather conditions. That claimant contends that supplemental specifications of its construction contract with DOT specified that this work would be performed at a unit price 3 times that specified for unclassified excavation work under the contract (\$9.00 per cubic yard). DOT contends that the work was of a different character than the work the claimant was required to perform under the contract and should therefore be compensated on a change order force account basis at \$3.61 per cubic yard. DOT paid the claimant at this rate. The claimant claimed \$173,574, less a payment made by DOT to the claimant for the work (\$56,720), which equals \$116,854, plus interest from the date that payment became due. The claims board recommended denial of this claim on February 19, 1992. See 1991 *Senate Journal*, pp. 673-674.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

